

BOB MILLER
Governor

STATE OF NEVADA
PUBLIC SERVICE COMMISSION OF NEVADA
Capitol Complex
727 Fairview Drive
Carson City, Nevada 89710
(702) 687-6007

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APR 20 1992

Federal Communications Commission
Office of the Secretary

Commissioners:
TOM STEPHENS
Chairman

STEPHEN WIEL
JO ANN KELLY
MICHAEL A. PITLOCK
ROSE MCKINNEY-JAMES



LESLIE T. MILLER
Counsel

WILLIAM H. VANCE
Secretary

April 17, 1992

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FCC MAIL BRANCH

Office of the Secretary
Federal Communications Commission
1919 "M" Street, N. W.
Washington, D. C. 20554

Re: ET Docket No. 92-9

Dear Ms. Searcy:

Enclosed please find the original and 10 copies of the Comments of the Public Service Commission of Nevada for filing in the above-referenced docket. Please distribute a personal copy of these Comments to each Commissioner. In addition, please return a file stamped copy to me in the enclosed self-addressed, stamped envelope.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, reading "Leslie T. Miller".

LESLIE T. MILLER
General Counsel

LTM/md

Encls.

CONSUMER DIVISION:

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Before the
Federal Communications Commission
Washington D.C. 20554

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In the Matter of)

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Redevelopment of Spectrum to)
Encourage Innovation in the)
Use of New Telecommunications)
Technologies)

Federal Communications Commission
Office of the Secretary

ET Docket No. 92-9

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COMMENTS OF THE

PUBLIC SERVICE COMMISSION OF NEVADA

April 20, 1992

Submitted by:

Thomas E. Stephens, Chairman
Public Service Commission of
Nevada
727 Fairview Drive
Carson City, Nevada 89710
(702) 687-6007

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS

Federal Communications Commission
Office of the Secretary

The Nevada Public Service Commission ("Nevada PSC") respectfully submits these comments in response to the Notice of Proposed Rule Making (NPRM) adopted by the Federal Communications Commission ("FCC" or "Commission") on January 16, 1992.

In its NPRM, the FCC proposed to establish new areas of spectrum, designated from 220 MHz of the spectrum between 1.85 and 2.20 GHz, to be used for emerging telecommunications technologies. The Nevada PSC supports the FCC's efforts to ensure that sufficient spectrum is available for emerging wireless telecommunications technologies. We further support and urge adoption of the Commission's proposal to develop a flexible regulatory framework for spectrum reallocation that will avoid imposing undue costs and potential disruption of vital communications for current fixed microwave users in these bands.

Due to Nevada's geographic and demographic characteristics, private microwave systems are heavily used for the internal communications needs of the State's utilities, railroads, and other private and public entities. With a land area (110,000 square miles) that ranks as the seventh largest in the nation and a population of just 1.3 million, Nevada is one of the largest and most sparsely populated states in the country. In fact, since roughly 90% of the state's population resides on just 10% of the land area, huge expanses of

the state are virtually unpopulated. These demographic features, combined with the state's rugged terrain, make microwave the only cost-effective method of communication for many of the utilities and other current holders of private microwave licenses who occupy frequencies within the 1.85 to 2.20 GHz band. The Nevada PSC is very concerned about the potential impact of spectrum reallocation on these entities, who would face extremely high costs if required to relocate to higher frequency bands, and who may have no other cost-effective communications alternatives that meet their operating and reliability requirements.

For example, electric utilities in Nevada currently hold licenses for 114 private microwave stations that are used for their internal communications needs, including system dispatch. It has been estimated that the cost to relocate individual 2 GHz stations to higher frequency bands or to install fiber would average \$200,000 per station. Based on this estimate, the total cost to relocate the fixed microwaves operated by these utilities would be approximately \$23 million. Given the relatively small electric utility customer base in Nevada over which these costs could be spread, the electric rates of Nevada consumers could be severely impacted, if the utilities were forced to bear these costs.

Moreover, in many cases alternative transmission technologies would not be viable replacements for the existing microwave systems. In contrast to many of the more densely populated areas of the nation where fiber has been extensively deployed, the vast distances and low population densities that characterize much of Nevada make fiber (and cable) an uneconomic alternative in large segments of the state. Additionally, while satellite transmission is a possible alternative for some current uses of private microwave, it may not provide adequate speed and reliability for such specialized uses as electric

utility dispatch.

The Nevada PSC believes that the negative impacts of the proposed spectrum reallocation on current microwave users and their customers or constituents can be minimized through the type of flexible regulatory approach outlined in the FCC's NPRM. In particular, we agree with the FCC's proposal to make available all fixed microwave bands above 3 GHz for relocation of fixed microwave operations currently licensed in the 1.85 to 2.20 GHz spectrum, and to waive the eligibility requirements for current users who relocate to the new bands. We also agree that the reasonable costs of relocation should generally be paid by the new users of the 1.85 to 2.20 GHz spectrum, rather than the existing users, and that this could be accomplished by allowing the newcomers to negotiate financial arrangements with existing users for access to the 2 GHz frequencies. This "market-based" approach should help to ensure that the existing microwave licensees receive fair compensation for relocating to higher bandwidths. It may also shorten the time period for a new user to obtain access to frequencies needed for innovative communications services that will benefit the public. However, the Commission should retain sufficient flexibility in its rule to allow alternative methods of compensating for the reassignment of frequencies, in the event that the negotiation process fails to yield the desired results.

We further concur with the proposal to adopt a ten to fifteen year transition period during which current users of 2 GHz frequencies could continue to occupy those frequencies on a co-primary basis with new services.

In addition to these specific proposals outlined in the NPRM, the Nevada PSC urges the FCC to include sufficient flexibility in its rules to allow for exemptions to the spectrum reallocation where special circumstances warrant. The NRPM includes a proposed exemption for state and local government

agencies, which would be allowed to continue to operate fixed microwave facilities at 2 GHz on a co-primary basis indefinitely. The rules should permit similar exemptions, on a case-by-case basis, for other types of existing users. For instance, for some microwave links involving particularly long distances or other special limitations, frequencies in the bands above 3 GHz may not be technically suitable for an existing user who now operates in the 1.85 to 2.20 GHz range. In those circumstances, the rules should be flexible enough to permit relocation of that user to another available frequency within the 1.85 to 2.20 GHz band, or to another suitable band which may be underutilized in a particular area. For instance, it may be feasible to allow investor-owned utilities in Nevada (the predominant source of power generation in the state) to utilize bandwidths that are presently reserved for public power utilities.

Likewise, existing users operating in locations that do not attract new communications services such as PCS should be permitted to retain their existing licenses indefinitely, to avoid the substantial costs of relocation. Many of the very sparsely populated areas in Nevada and throughout the Intermountain West may not attract communication service providers who require bandwidth in the 1.85 to 2.20 GHz range; accordingly, in such areas it may be unnecessary to clear the band.

The Nevada PSC believes that by retaining flexibility in its rules to allow for the particular circumstances that exist in different areas, the FCC

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can effectively promote new communications technologies without imposing undue hardships on existing users of the targeted spectrum.

DATED this 16th day of April, 1992.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas E. Stephens", written over a horizontal line.

THOMAS E. STEPHENS, Chairman
Nevada Public Service Commission